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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,973	11/29/2005	Ingo Kalliske	076326-0312	1628
22428 7590 11/05/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER GOODEN JR, BARRY J	
			ART UNIT 3616	PAPER NUMBER
			MAIL DATE 11/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,973

Applicant(s)

KALLISKE ET AL.

Examiner

BARRY J. GOODEN JR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20, 21, 24, 25, 30-33 and 36-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20, 21, 24, 25, 30-33 and 36-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____

DETAILED ACTION

This office action is in response to the amendment filed July 1, 2008.

Claim Objections

1. Claims 46 and 50 are objected to because of the following informalities:

At line 2, of claim 46, "each of lateral" appears that it should be replaced with "each of the lateral".

At line 4, of claim 50, "wherein airbag" appears that it should be replaced with "wherein the airbag".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 32 and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case, "transparent airbag" and "transparent woven fabric" acting as reinforcement mechanisms does not appear to be supported. Moreover, the subject matter is not described in the specification in such a

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way so as to be enabling. More specifically the specification does not provide support for enabling "transparent".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 51 is rejected under 35 U.S.C. 102(b) as being anticipated by Naoyuki et al, JP 2000-264146.

In regards to claim 51, Naoyuki et al. discloses all of the claimed elements including a motor vehicle safety device for protecting pedestrians and cyclists comprising:

at least one airbag which is arranged under an engine hood (12) on a motor vehicle (Reference is made to Figures 1-3), is connected to at least one gas generator (11), unfolds to protect a pedestrian or cyclist who strikes the motor vehicle and, in a process of unfolding, initially lifts up the engine hood from the motor vehicle at least at a location of the unfolding of the airbag to such an extent that the airbag can unfold outwardly in a second phase,

wherein, in an unfolded state, the airbag has one chamber below the engine hood in a region of hinges of the engine hood, and extends above the engine hood over

the entire width of the motor vehicle in front of a lower region of a windshield and A-pillars of the motor vehicle (Reference is made to Figures 1-3);

wherein lateral ends of the airbag which cover the A-pillars point upward after the unfolding of said airbag (Reference is made to Figures 2-4 and 10); and,

wherein airbag sections, which are unfolded in front of the A-pillars of the motor vehicle are additionally fixed in order to prevent lateral displacement of said airbag sections (10,54, and Reference is made to Figure 10); and

wherein the airbag has tucks which divide the airbag between a part (upper cushion portion) and chambers (lateral and lower cushion portions) in which openings are formed between the part and the chambers, and a module housing which has a gas generator connected with the chambers below the tucks such that the chambers are first to unfold (Reference is made to Figures 4 and 10).

Examiner notes that the chambers of Naoyuki et al. would be the first to unfold just as the chambers of the applicant are first to unfold since they are structurally similar and would function in a similar manner.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 20-25, 30, 31, 36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al, JP 2000-264146, in view of Takimoto, EP 1350692.

In regards to claims 20-25, 30, 31, 38 and 39, Naoyuki et al. discloses all of the claimed elements including a motor vehicle safety device for protecting pedestrians and cyclists comprising:

an airbag that is configured to be arranged under a hingedly connected hood (12) of the vehicle (Reference is made to Figures 1-3); and

a gas generator (11) connected to the airbag;

wherein, during inflation, the airbag is configured to lift at least a portion of the hood such that a section of the airbag can thereafter unfold onto an A-pillar and a lower portion of a windshield of the vehicle (Reference is made to Figures 1-3);

wherein, when unfolded, the airbag is configured to include a chamber located below the hood in the vicinity of one of the hinges of the hood, and a lateral end of the

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airbag, which is configured to cover the A-pillar, points upward (Reference is made to Figures 2-4 and 10); and,

wherein the airbag section, which is configured to unfold onto the A-pillar, is fixed by a restraining member to prevent lateral displacement (10,54,and Reference is made to Figure 10);

wherein the airbag is configured so that, when inflated, the airbag extends over the entire width of the vehicle into a position in front of both A-pillars (Reference is made to Figures 4 and 10);

wherein the restraining member is an intercepting strap (10, 54);

wherein the restraining member is a tube-shaped airbag (Reference is made to top portion of airbag 53, Figure 10);

wherein the restraining member is an intercepting strap or a tube-like airbag that connects the lateral ends of the airbag together (Reference is made to Figure 10);

wherein the airbag is subdivided into at least four chambers by tucks and/or dividing walls;

wherein the airbag comprises an additional (upper chamber) connected to the chamber (lower chamber) configured so that a volume can be displaced between (upper chamber and lower chamber) for energy absorption.

In regards to claims 20-25, 30, 31 and 38, Naoyuki et al. discloses all of the claimed elements except intercepting straps.

Takimoto teaches intercepting straps (Reference is made to Figure 6) including:

wherein the restraining member includes a pair of intercepting straps (13C, 13C') or tube-like airbags;

wherein a first (13C') of the pair of intercepting straps or tube-like airbags connects a first lateral end of the airbag to a central portion of the airbag (via 13C); and

wherein a second (13C) of the pair of intercepting straps or tube-like airbags connects a second lateral end of the airbag to the central portion of the airbag that is located below the hood and on an opposite, first side of the vehicle (Reference is made to Figure 6).

further comprising a reinforcement mechanism provided in the vicinity of each of the lateral ends of the airbag (Reference is made to Figure 2);

wherein the reinforcement mechanism is a seam (16).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the safety device of Naoyuki et al. with intercepting straps as taught by Takimoto since it has been held that rearranging parts of an invention involves only routine skill in the art and so as to achieve the expected result of securing and positioning the lateral ends of the airbag relative to the vehicle.

In regards to claim 36, Naoyuki et al. in view of Takimoto discloses all of the claimed elements excluding an inflation fluid feed line.

It is old and well known in the art to connect a gas generator to an airbag via a fluid feed line so as to increase the flexibility a designer has when considering where to place the gas generator within the vehicle. As such, it would have been obvious to one

of ordinary skill in the art at the time of invention to try to modify the device of Naoyuki et al. so as to achieve the expected result of increasing the flexibility of placement with respect to the gas generator within the vehicle confines.

Applicant has not explicitly refuted that it is known to connect a gas generator to an airbag via a fluid feed line as such it is taken as an admission of prior art.

Examiner notes the terminology "central portion" may be construed as any portion located between the extreme ends.

9. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al. in view of Takimoto as applied to claim 20 above, and further in view of Ryan et al., US Patent 6,712,169.

In regards to claim 37, Naoyuki et al. in view of Takimoto discloses all of the claimed elements excluding an outflow opening in the airbag.

Ryan et al. teaches of an airbag including at least one outflow opening (50) for energy absorption.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the airbag of Naoyuki et al. as modified above in view of the teachings of Ryan et al. to include an outflow opening so as to allow for the controlled dissipation of inflation gas upon impact by a person or other structure.

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10. Claims 40-45, 49 and 50 rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al., JP 2000-264146, in view of Rach, DE 10062560.

In regards to claims 40-45, 49 and 50, Naoyuki et al. discloses all of the claimed elements including a motor vehicle safety device for protecting pedestrians and cyclists comprising:

an airbag that is configured to be arranged under a hingedly connected hood (12) of the vehicle (Reference is made to Figures 1-3); and

a gas generator (11) connected to the airbag;

wherein, during inflation, the airbag is configured to lift at least a portion of the hood such that a section of the airbag can thereafter unfold onto an A-pillar and a lower portion of a windshield of the vehicle (Reference is made to Figures 1-3);

wherein, when unfolded, the airbag is configured to include a chamber located below the hood in the vicinity of one of the hinges of the hood, and a lateral end of the airbag, which is configured to cover the A-pillar, points upward (Reference is made to Figures 2-4 and 10); and,

wherein the airbag section, which is configured to unfold onto the A-pillar, is fixed by a restraining member to prevent lateral displacement (10,54,and Reference is made to Figure 10, thus emphasizing the need for lateral displacement restraining members);

wherein the airbag is configured so that, when inflated, the airbag extends over the entire width of the vehicle into a position in front of both A-pillars (Reference is made to Figures 4 and 10);

a central section where all the inflation gas is provided from (Reference is made to Figure 4);

wherein the airbag is subdivided into at least four chambers by tucks and/or dividing walls (Reference is made to Figure 10);

wherein the airbag comprises an additional (upper chamber) connected to the chamber (lower chamber) configured so that a volume can be displaced between (upper chamber and lower chamber) for energy absorption.

Naoyuki discloses all of the claimed elements excluding the restraining member comprising a pair of tube-like airbags.

Rach discloses a pair of tube-like airbags operable as lateral displacement restraining members (Reference is made to Figure 19, element 56 is comprised of a right side tube and left side tube);

wherein the pair of tube-like airbags connects lateral ends of the airbag together (Reference is made to Figure 19);

wherein a first (left side) of the pair of tube-like airbags connects (via element 57) a first lateral end (left side) of the airbag to a portion of the airbag that is located on an opposite (right side), second side of the vehicle, and

wherein a second of the pair of tube-like airbags connects a second lateral end (right side) of the airbag to a portion of the airbag that is located on an opposite (left side), first side of the vehicle;

wherein a first end (left end) of a first (left side) of the pair of tube-like airbags is connected to a first lateral end (left side) of the airbag and a second end (right end) of the first of the pair of tube-like airbags is connected to the vehicle (via element 57), and

wherein a first end (right end) of a second of the pair (right side) of tube-like airbags is connected to a second lateral end (right side) of the airbag and a second end (left end) of the second of the pair of tube-like airbags is connected to the vehicle (via element 57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have replaced the lateral displacement restraints of Naoyuki et al. in view of the teachings of Rach with a pair of tube-like airbags so as to increase the padded areas available to receive an object and securing the lateral ends of the airbag a-pillar portions relative to the lateral ends of the vehicle. Furthermore, examiner notes that both references teach it is desirable to resist lateral displacement although the means or resistance may vary the desired result remains resisting lateral displacement.

11. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al. in view of Rach as applied to claim 40 above, and further in view of Takimoto, EP 1350692.

In regards to claims 46 and 47 Naoyuki et al. in view of Rach discloses all of the claimed elements excluding a reinforcement mechanism provided in the lateral ends of the airbag.

Takimoto discloses a reinforcement mechanism provided in the vicinity of each of the lateral ends of the airbag (Reference is made to Figure 2);

wherein the reinforcement mechanism is a seam (16).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the lateral ends of the airbag of Naoyuki et al. as modified above in view of the teachings of Takimoto so as to provide increased stiffness to resist deformation and increasing the ease of forming complex shapes by seaming panels in the desired shape rather than weaving in the desired form.

12. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al. in view of Rach as applied to claim 40 above, and further in view of Ryan et al., US Patent 6,712,169.

In regards to claim 48, Naoyuki et al. in view of Rach discloses all of the claimed elements excluding an outflow opening.

Ryan et al. teaches of an airbag including at least one outflow opening (50) for energy absorption.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the airbag of Naoyuki et al. as modified above in view of the teachings of Ryan et al. to include an outflow opening so as to allow for the controlled dissipation of inflation gas upon impact by a person or other structure.

Response to Arguments

13. Applicant's arguments with respect to claims 20, 21, 24, 25, 30-33 and 36-51 have been considered but are moot in view of the new ground(s) of rejection.

Examiner maintains the previous rejection is proper.

In regards to the rejection under 112, 1st, examiner maintains the specification is not enabling for transparent. The examiner is not aware of any woven gas bag material capable of withstanding the inflation and impact forces that is transparent.

In regards to the arguments pertaining Naoyuki et al., examiner maintains that Naoyuki et al. discloses all of the claimed elements with respect to the previous claim set, newly amended claim 20 is rejected under new grounds thus rendering the remaining arguments moot.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARRY J. GOODEN JR whose telephone number is (571)272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on (571) 272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/
Supervisory Patent Examiner, Art Unit 3616

Barry J Gooden Jr.
Examiner
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BJG